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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAVIER MONTANO,

Defendant.

2:20-CR-199-JAD-NJK

ORDER GRANTING ECF No. 88

**United States of America's Unopposed
Motion to Continue the Scheduled
Hearing, ECF No. 84
(First Request)**

This Motion is the first request to continue the hearing scheduled for June 7, 2023, at 11 am.¹ LR IA 6-1. The hearing will address the Motion to Prevent HOA Esplanade Foreclosure Sale of 6633 Lavender Lion St, North Las Vegas, Nevada 89086,² the Motion to Approve Sale Price and Sale Terms for Real Property Located at 6633 Lavender Lion St,³ and the Motion to Prevent the Clark County Treasurer from Untimely Asserting an Interest in the Forfeited Property.⁴

The reason to continue the hearing is undersigned will work out of state that week. The court indicated the hearing could be continued to June 12, 2023, at 10 am. This motion is not submitted solely for the purpose of delay or for any other improper purpose and is made and is based on the attached Memorandum of Points and Authorities, the pleadings, and the papers on file herein.

¹ ECF No. 84.

² ECF No. 80.

³ ECF No. 81.

⁴ ECF No. 82.

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **STATEMENT OF FACTS**

3 The three Motions pending before the Court relate to the forfeited property, 6633
4 Lavender Lion St., North Las Vegas, NV 89086 (6633 Lavender Lion or property).⁵ The
5 property was substituted and forfeited with the proceeds to be applied to the criminal
6 forfeiture money judgment of \$1,194,672.68 under 18 U.S.C. § 981(a)(1)(C) with 28 U.S.C.
7 § 2461(c) and 21 U.S.C. § 853(p).⁶

8 The government served Esplanade Homeowners Association (HOA) and the Clark
9 County Officers the Order and the Notice that provided instructions for filing a petition to
10 assert an interest.⁷ They did not file third-party petitions. During the forfeiture process, the
11 United States filed a Motion for Interlocutory Sale to sell 6633 Lavender Lion to reduce the
12 taxes, fees, and other liabilities included in maintaining the property.⁸ The HOA proceeded
13 with a notice default and election to sell.⁹ The government filed a motion to prevent the sale
14 of the property under the Property Clause and the Supremacy Clause of the United States
15 Constitution and 21 U.S.C. § 853(k) and (n).¹⁰

16 As a courtesy to this Court since the government started with the Court's approval of
17 an interlocutory sale, it continues to return to this Court for sale approval until the real
18 property is sold.¹¹

19 / / /

20 _____
21 ⁵ The legal description of the property is: Lot Thirty-Nine (39) of FINAL MAP OF
22 MARLIDA (a common interest community), as shown by map thereof on file in Book 125
23 of Plats, Page 84, in the Office of the County Recorder of Clark County, Nevada, Together
24 with All Improvements and Appurtenances Thereon, APN: 124-24-310-039.

25 ⁶ Am. POOF, ECF No. 20; Motion to Substitute and Forfeit Property of Javier Montano,
26 ECF No. 26; Substitution and Forfeiture Order of Javier Montano, ECF No. 29; Second
27 Amended FOOF, ECF No. 72.

28 ⁷ Notice of Filing Service of Process-Personal Service, ECF No. 52-1:7-14, 20-27.

⁸ Motion for Interlocutory Sale, ECF No. 50; Order Granting Motion for Interlocutory Sale,
ECF No. 54.

⁹ See Exhibit 1, Esplanade HOA c/o Nevada Community Management's Lien Letter and
Exhibit 2, HOA Lawyers Group's Notice of Default and Election to Sell under
Homeowners Association Lien, attached to Motion to Prevent HOA Esplanade Foreclosure
Sale, ECF No. 80, 80-1:2-4, 5-9.

¹⁰ Motion to Prevent HOA Esplanade Foreclosure Sale, ECF No. 80.

¹¹ Motion to Approve Sale Price, ECF No. 81; Notice of Hearing, ECF No. 84.

1 During the second attempt to sell 6633 Lavender Lion, the Clark County Treasurer
2 attempted to collect taxes through escrow it was not entitled to collect. To help expedite the
3 sale of the property to the third buyer, the United States filed a Motion to Prevent the Clark
4 County Treasurer from Untimely Asserting an Interest in the Forfeited Property.¹² Clark
5 County filed a Non-Opposition to the Motion.¹³

6 The Court notified the United States of a hearing scheduled on June 7, 2023.¹⁴ The
7 Court indicated the hearing could be continued to June 12, 2023, at 10 am, because
8 undersigned will work out of State. Timothy Allen, Deputy District Attorney; Michael
9 Graves, counsel for Nevada Community Management, registered agent for Esplanade
10 Homeowners Association; and Steve Loizzi, HOA Lawyers Group, for Esplanade
11 Homeowners Association, agreed to the continuance.

12 **CONCLUSION**

13 Good cause is shown to continue the motions hearing [ECF Nos. 80, 81, and 82] to
14 June 12, 2023, at 10 am to allow undersigned counsel to be present to address the Motions
15 and because the parties agree to the continuance.

16 IT IS FURTHER ORDERED that the Motion to Shorten Time [ECF No. 85] is
17 DENIED as moot.

18 Dated: May 31, 2023.

19 Respectfully submitted,
20 JASON M. FRIERSON
21 United States Attorney
22 /s/ Daniel D. Hollingsworth

23 DANIEL D. HOLLINGSWORTH
24 Assistant United States Attorney

25
26
27 
UNITED STATES DISTRICT JUDGE

DATED: June 1, 2023.

28 ¹² ECF No. 82.

¹³ ECF No. 83.

¹⁴ ECF No. 84.